

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No. 05-30082

SCOTT STERN,  
Plaintiff

v.

MARY STERN, GARY MATTESON,  
and EVAN EHMANN,  
Defendants

U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
2005 SEP 13 A 8:31  
CLERK'S OFFICE

**DEFENDANT, MARY STERN'S, MOTION TO DISMISS THE COMPLAINT  
PURSUANT TO FED. R. CIV. P. 12(b)**

Defendant, Mary Stern (hereinafter referred to as "Mary Stern"), a Defendant in the above-captioned Complaint, for herself only, and separately from the remaining Defendants named herein, moves the Court:


1. To dismiss six out of the seven causes of action in the complaint alleged against this Defendant (First, Fourth, Fifth, Seventh, Ninth, Thirteenth, Seventeenth, and Twentieth), pursuant to Fed. R. Civ P. 12(b)(1), on the ground that the Court lacks subject matter jurisdiction over the Plaintiff's Complaint, given that the allegations contained in the Complaint are insufficient to show that any substantial federal question is involved, and the Plaintiff's Complaint plainly sets forth claims for relief under state law; and
2. To dismiss, with prejudice, the Ninth, Eleventh, and Seventeenth causes of action in the Complaint alleged against this defendant, pursuant to Fed. R. Ci v. P. 12(b)(6), on the ground that the same fail to state any claim against the Defendant, Mary Stern, upon which relief can be granted, and to dismiss this Defendant from the action.

As further reasons therefore, the Defendant, Mary Stern, files herewith a supporting Memorandum of Law.

WHEREFORE, the Defendant, Mary Stern, respectfully requests that the Court grant the within Motion and order all other relief that the Court deems proper and just.

Respectfully submitted,


The Defendant  
MARY STERN  
By Her Attorney

  
ERIN C. WYLLIE, ESQ.  
BBO No. 557192  
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Date: September 13, 2005

Certificate of Service

I, Erin C. Wyllie, hereby certify that a true copy of the foregoing document was served mailing a copy, postage prepaid, United States mail, to the Plaintiff, Scott Stern, at his address of 400 West Main Street, North Adams, Massachusetts, and by mailing a copy to Counsel of Record for the Defendants this 13<sup>th</sup> day of September 2005.

  
Erin C. Wyllie